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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,381	04/04/2001	Fumiyo Shi Abe	450100-03148	6372
20999	7590	05/05/2005	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				NGUYEN, HUY THANH
ART UNIT		PAPER NUMBER		
2616				

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/827,381	ABE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	HUY T. NGUYEN	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-7 is/are allowed.
- 6) Claim(s) 8-11 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 8 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 directs to information stored on a medium. Since the information do not provide any functional interrelationship to the medium to control access and reading out the information . or impart to any software and hardware structural components to provide certain information that is processed by a computer, the information do not make them statutory.. See MPEP 2100.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Oguro (6,026,212).

Regarding claim 8, Oguro discloses a format for a magnetic tape on which digital data is recorded with a rotary head, wherein first group data comprising video data, audio data or search data or comprising auxiliary data having a variable length and related to the video data, the audio data or the search data, and second group data containing a subcode related to the video data, the audio data or the search data are recorded such that said first group data and said second group data are continuously arranged on tracks of said magnetic tape without being spaced away from each other (Fig. 1).

5. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Okuyama et al (5,987,126).

Regarding claim 8, Okuyama discloses a format for a magnetic tape on which digital data is recorded with a rotary head, wherein first group data comprising video data, audio data or search data or comprising auxiliary data having a variable length and related to the video data, the audio data or the search data, and second group data containing a subcode related to the video data, the audio data or the search data are recorded such that said first group data and said second group data are continuously arranged on tracks of said magnetic tape without being spaced away from each other (Figs. 5 and 6, column 11, lines 50-68).

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6. Claim 8 is rejected under 35 U.S.C. 102(e) as being anticipated by Senshu et al (6,658,195).

Regarding claim 8, Senshu discloses a format for a magnetic tape on which digital data is recorded with a rotary head, wherein first group data comprising video data, audio data or search data or comprising auxiliary data having a variable length and related to the video data, the audio data or the search data, and second group data containing a subcode related to the video data, the audio data or the search data are recorded such that said first group data and said second group data are continuously arranged on tracks of said magnetic tape without being spaced away from each other (Fig. 3, column 5, lines 35-55) .

7. Claim 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Oguro (6,026,012).

Regarding claim 9, Oguro teaches a magnetic tape playback apparatus (Fig. 19) for playing back, with a rotary head, a magnetic tape on which first group data comprising compressed high-definition or standard- definition video data, audio data or search data, or comprising auxiliary data having a variable length and related to the video data, the audio data or the search data, and second group data containing a subcode related to said first group data are recorded such that said first group data and said second group data are continuously arranged on tracks without being spaced away from each other (Fig. 1) , said apparatus comprising:

acquiring means (22,30) for acquiring the auxiliary data, as said first group data, or said second group data from data reproduced from said magnetic tape with said rotary head (column 12, lines 30-35);

decompressing means ( 25,26)for decompressing the compressed high-definition video data, which is contained in the data reproduced from said magnetic tape with said rotary head, by using the auxiliary data or said second group data acquired by said acquiring means (column 12, lines 30-68, column 15, lines 59-65, columns 19-20)

Method claims 10 and 11 correspond to apparatus claim 9. Therefore, method claim 10 and 11 are rejected by the same reason as applied to apparatus claim 1 .

Further for claim 11, Oguro teaches a program stored on a medium for performing the method of claim 11 since acquiring and decompressing the video and subcode data are controlled by a controller of the apparatus.

***Allowable Subject Matter***

8. Claims 1-7 are allowed.

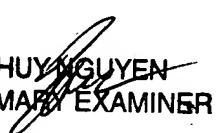
The following is a statement of reasons for the indication of allowable subject matter: The prior art do not teach a magnetic tape recording apparatus for recording the data on a magnetic tape by a rotary head comprises a combination of means for selecting between video data or audio data and auxiliary data having variable length as a first group data and merging means for merging the subcode data with the first group data such that the subcode data and the first group data are continuously and recording on the magnetic tape as specified in claims 1,6 and 7.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (571) 272-7375. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

  
HUY T. NGUYEN  
PRIMARY EXAMINER